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RUEATRS/DEPT OF TREASURY WASHDC PRIORITY  
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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 000765

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E.O. 12958: DECL: 03/08/2016  
TAGS: [ECON](#) [KBCT](#) [PGOV](#) [PREL](#) [IZ](#)  
SUBJECT: MFA CONFIRMS ITS ROLE IN ENFORCING THE ARAB LEAGUE  
BOYCOTT

REF: A. 2005 BAGHDAD 4893  
[B](#). 2005 BAGHDAD 3132  
[C](#). 2005 BAGHDAD 2972

Classified By: Deputy Chief of Mission David M. Satterfield for reasons  
1.4 (b) and (d).

[1](#)1. (U) Please see para 11 for an action request.

[1](#)2. (C/REL GBR AUS) SUMMARY: On March 2, Emboffs met with Ministry of Foreign Affairs (MFA) officials, including the director of the MFA Arab League Boycott (ALB) Office, to discuss the MFA's role in the enforcement of the boycott in Iraq. The MFA argued that the continued operation of its Boycott Office is based on a law passed in 1956 that was not/not amended or repealed by subsequent CPA orders. We told the MFA officials that Iraq's continued enforcement of the ALB will be problematic for acceding to the WTO and encouraging foreign investment. They are aware of our concerns but said they view the problem primarily as political and one that the GOI is not yet ready to address. Enforcement of the ALB tends to be inconsistent, and large firms that do business with Israel are operating here. Nevertheless, even ad hoc enforcement is unacceptable and the Embassy continues to press the GOI at all levels to stop enforcing the ALB (reftels). END SUMMARY.

[1](#)3. (C/REL GBR AUS) On March 2, Econoff and Embassy Legal Advisor met with Deputy Foreign Minister Hamoud Bidan, Dr. Srood Najib (Head of the International Organizations and Multilateral Cooperation Department), and Hikmat Alani (Director of the Arab League Boycott (ALB) Office within the MFA). The MFA's Boycott Office employs four to five individuals and is part of the MFA's Arab League Office.

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Role of the MFA  
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[1](#)4. (C/REL GBR AUS) The MFA's Boycott Office is the primary conduit for boycott-related information between the ALB main office in Damascus and other Iraqi ministries. According to Hikmat, Iraqi ministries are the primary enforcers of the boycott; the MFA merely transmits requests for verification from Iraqi ministries to the ALB office in Damascus. Operationally, Hikmat told us it works as follows: Ministries who have questions as to whether the boycott applies to a particular company send the name to the MFA, which then asks Damascus. Once the MFA receives a response from Damascus, it forwards the response back to the requesting ministry. The MFA also receives regular blacklist reports from the Damascus office, but it is unclear how much of that information the MFA disseminates to Iraqi ministries that have not requested the information specifically.

15. (C/REL GBR AUS) In response to our point that CPA Orders repealed certain ALB laws, Hikmat asserted that it is incumbent upon each ministry to comply with relevant law. If a ministry asks for boycott-related information, the MFA will furnish the answers but will not examine the legality of the ministry's request, Hikmat added. Hikmat noted that, as recently as the day before, the MFA had transmitted a list of companies from the Ministry of Industry and Minerals (MIM) to Damascus for verification on whether certain companies are on the ALB blacklist.

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Arab League Meetings  
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16. (C/REL GBR AUS) The MFA's Boycott Office continues to send delegates to the biannual ALBB meeting held by the Arab League (AL) in Damascus. Hikmat said that AL members have been quite pleased that Iraq continues to attend even after the end of Saddam Hussein's regime. Hikmat noted that the MFA and the Ministry of Trade (MoT) each sent two delegates to the last ALB meeting in November 2005; the next meeting is scheduled for April or May 2006. (NOTE: AL countries that no longer enforce the boycott, such as Jordan, Egypt and Bahrain, do not attend these meetings. END NOTE.)

17. (C/REL GBR AUS) In preparation for the next ALB meeting, both the MFA and MOT have requested formal guidance from the PM's Office on how to respond to questions about Iraq's compliance with the boycott since there are blacklisted goods and companies already in Iraq. (NOTE: Notwithstanding the MFA's role in enforcing the ALB, several companies that do business with Israel already operate inside Iraq, including

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Royal Jordanian Airlines and General Electric. END NOTE.) According to Hikmat, since 2003, the GOI has denied at the ALB meetings that there are any blacklisted goods or companies in Iraq. Hikmat said that he does not wish to misrepresent Iraq's compliance with the boycott at the next meeting nor does he want to cause tension between Iraq and the other AL countries. This is why, he explained, his office has made official requests for guidance from the PM's Office. Hikmat noted, however, that the PM has yet to respond to queries that the MOT submitted three months ago and the MFA more than one month ago.

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ALB Laws and Regulations  
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18. (C/REL GBR AUS) All three MFA interlocutors confirmed that Law No. 34 of 1956 is the foundational legislation for ALB implementation in Iraq. (NOTE: Law No. 34 states, "His Majesty the King may take the measures necessary to ratify the Unified Law on the Boycott of Israel Regulations," and stipulates that it is the duty of Ministers "to implement this Law." END NOTE.) The MFA interprets Law No. 34 as mandatory and in effect. In addition, according to the MFA, there are other regulations that remain valid despite CPA orders that attempted to dismantle ALB enforcement. (NOTE: CPA Orders 39 and 80 effectively repealed ALB provisions in the areas of company registration and trademark registration but did not directly address Law No. 34. END NOTE.) One particular regulation, about which the MFA officials did not provide specific details, requires all ministries to verify with Damascus, via the MFA, that every company with which a ministry contracts is not on the ALB blacklist.

19. (C/REL GBR AUS) NOTE: The Arab League Boycott often is characterized as having primary, secondary, and tertiary aspects. These are generally understood as follows: the primary boycott prohibits the import of Israeli products or direct trade with Israel; the secondary boycott prohibits transactions with companies that invest in or do business

with Israel; and the tertiary boycott prohibits transactions with companies that do business with secondary boycott companies but that do not have any direct investments or business with Israel. Law No. 34 of 1956 clearly imposes both primary and secondary boycotts. (Several elements of the statute, including language cited below in para 9, illustrate the primary boycott.) With regard to the secondary aspect of the boycott, the law states, "foreign companies and institutions that have interests, subsidiaries or general agencies in Israel shall be considered as being in the category of entities and persons with which dealing is prohibited..."

¶10. (C/REL GBR AUS) NOTE CONT'D: It is less clear to us whether this particular law imposes a tertiary boycott. The law also provides that "all persons, whether natural or legal, are prohibited from making, whether directly, indirectly or through an intermediary, any covenant with entities or persons resident in Israel, belong to it by their nationality, work for its account, or who act in (Israel's) interest, wherever they may reside." This wide provision could perhaps be construed to cover tertiary aspects of the boycott depending on how terms and phrases like "covenant" and "acting in (Israel's) interest" are interpreted, but such a construction is not obvious. In addition, MFA officials intimated that there are other regulations issued by the Damascus office. It is plausible that some of these subsequent regulations could clarify the applicability of the tertiary aspect of the boycott. END NOTE.

¶11. (C/REL GBR AUS) ACTION REQUEST: Post would appreciate any clarification from Washington agencies, such as the Department of Commerce, as to how the Arab League imposes the tertiary aspect of the boycott. END ACTION REQUEST.

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Stopping ALB Enforcement  
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¶12. (C/REL GBR AUS) Najib emphasized that stopping enforcement of the ALB would require the repeal or suspension of Law No. 34, although he and his colleagues indicated that official instructions from the Prime Minister may be sufficient. (COMMENT: Although it is likely a PM order would be followed by the ministries, it could be challenged as long as Law No. 34 remains on the books, on the grounds that the PM does not have the authority to unilaterally amend valid legislation. END COMMENT.) Bidan and Najib said they both

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recognize that continued enforcement of the ALB deters foreign investment and would hinder Iraq's accession to the WTO. According to Bidan, the ALB issue is a "political one." Najib concurred, explaining that although the GOI intends to slowly dissolve the MFA's Boycott Office, the issue is not being focused on right now.

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COMMENT  
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¶13. (C/REL GBR AUS) COMMENT: Actual enforcement of the ALB in Iraq has been ad hoc and inconsistent. Not every ministry requests ALB verification for contracting companies, and requests for certification of boycott compliance in the company registration process appear to have ceased. We have not seen any listing of blacklisted ships in the official gazette since late 2004. Companies that have business relationships with Israel, including Royal Jordanian Airlines, General Electric, and Caterpillar, do operate in Iraq despite the ALB. The mission will continue to urge the GOI vigorously at the highest levels to dismantle ALB enforcement as well as the ALB legal framework in Iraq (reftels). END COMMENT.  
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